

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

TODD JANSON, GERALD T. ARDREY, CHAD M.  
FERRELL, and C & J REMODELING LLC, on behalf of  
themselves and on behalf of all others similarly situated,

Plaintiffs,

v.

LEGALZOOM.COM, INC.,

Defendant.

Case No. 2:10-cv-04018-NKL

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**SUGGESTIONS IN OPPOSITION TO PLAINTIFFS'  
MOTION IN LIMINE (DOC. NO. 155) REGARDING ANY EVIDENCE  
THAT LEGALZOOM.COM MAKES LEGAL DOCUMENTS AVAILABLE  
FOR LOW AND MIDDLE INCOME AMERICANS**

Defendant LegalZoom.com, Inc. ("LegalZoom"), for its Suggestions in Opposition to Plaintiffs' Motion in Limine Regarding Any Evidence That Legalzoom.com Makes Legal Documents Available for Low and Middle Income Americans ("Motion 155," Doc. 155), states as follows:

LegalZoom is entitled to present a complete picture of its business model to the jury. Part of this model is LegalZoom's commitment to providing low-cost legal document services, including to underserved segments of the population. The jury is entitled to understand the full context of LegalZoom's business. Forcing LegalZoom to provide an incomplete picture of its business will be prejudicial because, in order to determine whether LegalZoom is engaged in the unauthorized practice of law, the jury must understand LegalZoom, its business model, and the products that it sells. Additionally, without all of the evidence, the jury may make unfair assumptions about LegalZoom's business and the quality of its products.

As Plaintiffs acknowledge, the Court has broad discretion in determining the admissibility of evidence. *See United States v. Levine*, 477 F.3d 596, 603 (8th Cir. 2007). However, the Federal Rules of Evidence favor admissibility. *See Levine*, 477 F.3d at 603. The general rule under Rule 403 is that balance should be struck in favor of admission. *Id.*; *Block v. R.H. Macy & Co.*, 712 F.2d 1241, 1244 (8th Cir. 1983).

As noted by the Court in *Luce v. United States*, 469 U.S. 38, 41 (1984), “[a] reviewing court is handicapped in any effort to rule on subtle evidentiary questions outside a factual context.” For this reason, while motions in limine are widely used, many courts have expressed skepticism when faced with broadly drawn motions in limine. *See Sperberg v. Goodyear Tire & Rubber Co.*, 519 F.2d 708, 712 (6th Cir.) (“Orders *in limine* which exclude broad categories of evidence should rarely be employed. A better practice is to deal with questions of admissibility . . . as they arise.”), *cert. denied*, 423 U.S. 987 (1975); *Insignia Sys. Inc. v. News Am. Mktg. In-Store, Inc.*, No. 04-4213, 2011 U.S. Dist. LEXIS 10740, at \*12 (D. Minn. Feb. 3, 2011) (same); *Landers v. Nat’l R.R. Passenger Corp.*, No. 00-2233, 2002 U.S. Dist. LEXIS 7851, at \*7-8 (D. Minn. April 26, 2002) (same); *EEOC v. Fargo Assembly Co.*, 142 F. Supp. 2d 1160, 1161 (D.N.D. 2000) (same).

While it is true that the court may exclude evidence that confuses the issues and leads to litigation of collateral issues, *Firemen’s Fund Insurance Co. v. Thien*, 63 F.3d 754, 758 (8th Cir. 1995), Plaintiffs provide no explanation why evidence of LegalZoom’s customer base would be litigation of collateral issues. In *Thien*, the court did not allow a party to submit evidence related to liability in the accident when the sole issue in the case was whether there was insurance coverage. *Id.* at 759. In this case, the primary issue in the case is whether LegalZoom engaged in the unauthorized practice of law. Evidence of the customer base is directly relevant to the

issues in this case because, in order for the jury to decide this issue, LegalZoom must be able to provide a full and complete picture of its business.

Further, Plaintiffs fail to establish that any prejudice would result or that presentation of the evidence of LegalZoom's customer base would waste the jury's or the Court's time. Plaintiffs must describe with sufficient particularity why the court should exclude evidence of the customer base. *Pro batter Sports, LLC v. Joyner Techs., Inc.*, No. 05-CV-2045-LRR, 2007 WL 3285799, at \*5, \*9 (N.D. Iowa Oct. 18, 2007). In this case, Plaintiffs fail to describe with sufficient particularity why admitting evidence regarding LegalZoom's customer base would be unfairly prejudicial. The jury should be permitted to consider this evidence.

### **CONCLUSION**

For the reasons set forth above, LegalZoom respectfully requests that the Court deny Plaintiffs' Motion in Limine Regarding Any Evidence That Legalzoom.com Makes Legal Documents Available for Low and Middle Income Americans.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 2011, I electronically filed the above and foregoing with the clerk of court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

s/ James T. Wicks